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December 13, 2007

Via ECF Filing

The Honorable F. Dennis Saylor
Harold D. Donohue Federal Bldg and
United States Courthouse
595 Main Street
Worcester, MA 01608-2025

Re: *Allen v. Martin Surfacing, et al.*
Civil Action no. 05-40048-FDS

Dear Judge Saylor:

I write on behalf of both parties to request a status teleconference before the end of the month, to finalize the details of the *Daubert* evidentiary hearing scheduled to begin on January 7, 2008.

The parties have conferred and offer the following proposed protocol for the hearing (with two areas of disagreement indicated), for the Court's consideration in advance of the requested teleconference:

1. The parties will limit "opening statements" to a few minutes but need not present an opening as the *Daubert* pleadings should frame the hearing sufficiently¹;
2. Plaintiffs propose that they shall first present their experts, in whatever order they see fit. Each party has a total of _____ minutes to examine each expert; plaintiff can choose to reserve some of their time for re-direct [the parties are not in agreement here: plaintiffs propose 90 minutes for each side; defendant proposes 45-60 minutes];
3. Defense counsel disagrees with item (2) and proposes that he be permitted to go first with his cross-examination of each plaintiff expert before the plaintiffs present the direct examination of the expert; plaintiff counsel disagrees;

¹ Motions and oppositions have been filed; reply briefs are due in the coming days.

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4. Defendant can then present its expert if desired, with the same time limits as above;
5. The parties understand that the Court may interrupt to examine a witness at any time, which does not cut into the lawyer's allocated time. If the Court examines a witness after the parties have finished their examinations, and one or both sides feel further examination is appropriate, each side will have another 10 minutes; and finally
6. The parties may each take up to 30 minutes for "closing argument".

If there are other issues the Court wishes to address concerning this case or the *Daubert* hearing, we will be prepared to do so.

Thank you for your consideration of this request.

Sincerely,



James D. Gotz

Copy To: Counsel of Record (via ECF)